

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ELIZABETH CARRIZAL,
Plaintiff,

v.

STATE OF TEXAS – HEALTH AND
HUMAN SERVICES COMMISSION,
Defendant.

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CIVIL ACTION NO. 3:23-cv-00343-DCG

DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO COMPEL
DISCOVERY FROM DEFENDANT

TO THE HONORABLE SENIOR U.S. DISTRICT JUDGE DAVID C. GUADERRAMA:

Defendant Texas Health & Human Services Commission (“HHSC”) files this Response to Plaintiff’s Motion to Compel Discovery from Defendant. In support of its motion, HHSC respectfully offers the following:

1. Plaintiff Elizabeth Carrizal filed this lawsuit pursuant to Title VII of the Civil Rights Act following her termination from the El Paso State Supported Living Center (“EPSSLC”) on November 29, 2022, for misconduct in violation of agency work rules regarding client contact during a pending abuse, neglect, and exploitation (“ANE”) investigation and sexual contact between clients and staff.

2. Carrizal has also filed a lawsuit in state court pursuant to the Texas Whistleblower Act, cause number 2023DCV1135. Carrizal has served similar Requests for Production in both cases.

3. This Motion to Compel now seeks to compel “all witness statements taken concerning Plaintiff during all investigations about Plaintiff’s reports and complaints during Plaintiff’s employment with Defendant.” Plaintiff seeks “witness statements collected by Defendant *about Plaintiff’s claims of harassment.*” (Dkt. 33 pg. 2, emphasis added).

4. HHSC has already produced its entire file related to Plaintiff's complaint of harassment, Bates Stamped HHSC_000001-HHSC_000154, including witness statements. HHSC is not aware of additional witness statements to produce related to her complaint of harassment. Discovery is ongoing. Should HHSC discover any additional witness statements relevant to the allegations in this case through its diligent efforts during discovery, HHSC will promptly produce such statements to Plaintiff.

5. The documents that were at issue in the state matter were audio and visual files that were statutorily confidential. Only when a confidentiality order was entered were those documents, to the extent they existed, able to be produced in the state case. *See* HHSC's Exhibit A, Page 5 Lines 13-21 Exhibit B Page 8 Lines 19-24. Plaintiff does not seek the same documents in this Motion that were at issue in the state case, therefore any statements made during the hearings in the state case are irrelevant.

6. Of note, Plaintiff filed this Motion the Monday after lead counsel went on parental leave, of which Plaintiff's counsel was well-aware.

7. A hearing is requested upon the return of lead counsel from parental leave.

PRAYER FOR RELIEF

For the foregoing reasons, HHSC respectfully requests that the Court deny Plaintiff's Motion to Compel Discovery from Defendant.

Respectfully submitted,

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/s/ Stephanie A. Criscione /s/

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CERTIFICATE OF SERVICE

I certify that that on March 10, 2025, this document was filed electronically via the Court's CM/ECF system, causing electronic service upon all counsel of record.

/s/ Stephanie A. Criscione /s/

STEPHANIE A. CRISCIONE

Assistant Attorney General